

**FLOOD CONTROL ADVISORY BOARD
MINUTES**

September 23, 2002

Chairman Patel called the monthly meeting of the Flood Control Advisory Board to order at 2:03 p.m. on Monday, September 23, 2002.

Board Members Present: Hemant Patel, Chairman; Scott Ward, Vice Chairman; Shirley Long, Secretary; Kent Cooper; Melvin Martin; Tom Callow, Ex Officio; Paul Cherrington, Ex Officio.

Staff Members Present: Mike Ellegood, Chief Engineer and General Manager; Julie Lemmon, General Counsel; Dick Perreault, CIP/Policy Branch Manager; Michael Alexander Financial Analyst; Don Rerick, P.E. Project Manager; Greg Jones, Regional Area Manager; Anne Van Note, Interim Clerk of the FCAB; Kelly Presson, Management Analyst.

Guests Present: Aimee Conroy, City of Phoenix; Daryl Racz, Maricopa County Department of Transportation; Brian Fry, Dribble and Associates; Dennis Richards, WEST Consultants; Jeannette Fish, MCFB.

2) APPROVAL OF THE MINUTES OF THE MEETING OF August 28, 2002

ACTION: It was moved by Mr. Martin and seconded by Mr. Cherrington to approve the minutes as submitted. The motion carried unanimously.

3) DURANGO AREA DRAINAGE MASTER PLAN

Greg Jones, Regional Manager, presented Resolution FCD 2002R015, for the Durango Area Drainage Master Plan.

Mr. Jones gave a brief overview of the study area with the ADMP process, discussed project specifics to include drainage hazards, public involvement study, discuss the preferred plan that came out of the study and then summarized what resolution provisions are necessary. The study area includes four jurisdictions; City of Phoenix, City of Tolleson, City of Goodyear, and unincorporated Maricopa County. This study relied heavily upon public involvement with a total of 5 public meetings, newspaper coverage, presentation to the Council members of Estrella Planning, presentation to the City of Tolleson, and a presentation to the Maricopa County Planning and Zoning Board. Major constraints identified are utilities, including three waste water treatment plants. Preferred plan has three projects: 47th Avenue channel and basin, Durango Regional Conveyance Corridor, Durango Regional Outfall Project. Last month a portion of the DRCC was presented to Flood Control Advisory Board members. The resolution provision has

two key points: asking that ADMP be a planning tool for storm water management and that the adoption of this plan be recommended to the four jurisdictions afore mentioned.

Discussion:

Long: Relocation, did you mention that there was a need for relocation of homes?

Jones: At this point and time, there might be only one house that needs to be relocated out of this particular area. The home is located at 115th Avenue, it is a very difficult location. We are not sure until we get the final designs whether or not the home will need to be relocated.

Cherrington: That's the property north of the Buckeye feeder?

Jones: It's actually due west, on the opposite side of the road.

Cherrington: On the west side of 115th Avenue?

Jones: It is on the west side of 115th Avenue.

Patel: Can you recap where we are at? In other words, what is it we are approving? What is the next step?

Jones: We are requesting that the FCAB approve the master plan so that it can be implemented as a storm water management tool. We have already approved a portion of this. Typically we come with the adoption of the plan, but because of timing and other issues we actually came forward with a piece of the project first.

Patel: That is what was confusing. And now there will be multiple projects?

Jones: Yes sir.

Patel: Are there any other questions?

Martin: Greg, does that take care of the water from I-10 south?

Jones: This will take care of the majority of the water.

Patel: In getting the project to this point, how much data do we have on development plans out there? In other words, is there a chance that developers would go ahead and implement this?

Jones: We have been working with developers as a part of this plan. One of the areas highlighted in my presentation is Cold Water Springs where they are trying to work with our plan. The City of Avondale has also been working with us in trying to get this plan implemented as a part of the development plans. The biggest problem will be the basins, we will probably have to purchase them. There are also some other developments that may experience a problem with our plan because we came in too late which may require us to shift our alignment.

Martin: Didn't we approve this last month?

Jones: We approved last month the 75th Avenue storm drain to go forth with the design and to negotiate IGAs. We haven't yet approved anything as far as right of way acquisitions or anything above that. And we still would have to bring the IGA back for your approval at that time.

Cherrington: Where does the 47th Avenue channel run and how does it miss the sewer lines?

Jones: Extensive pot-holing was done as a part of the study, one of the major issues was the sewer lines. We have been very pro-active in this study to make sure we do not have any fatal flaws. The pot-holing was done along the alignments where we were crossing the sewer lines.

Cherrington: So there is clearance over the sewer line for the channel?

Jones: Yes.

ACTION: It was moved by Mr. Martin and seconded by Ms. Long to approve staff recommendations. The motion carried unanimously.

5) REEMS ROAD CHANNEL PROJECT

Greg Jones, Regional Manager, presented Resolution FCD 2002R014, for the Reems Road Channel Project.

Mr. Jones gave a brief overview describing the Loop 303 Corridor/White Tanks Area Drainage Master Plan. Project specifics were discussed as well as benefits. The study area is located within

three jurisdictions: City of Surprise, City of Glendale and unincorporated Maricopa County. This area was studied about 10 years ago as part of the White Tanks Area Drainage Master Plan. This project was submitted to our CIP in 2001 and was subsequently ranked number 2. One of the project specifics is that we propose is to tie in some existing channelization that was created by the developers in the area. Another suggestion is to design the channel for 100 year future flow condition along with a basin just north of Olive Avenue. One of the reasons that we are proposing the basin, which is just north of the Sante Fe railroad, is to reduce those flows going underneath the railroad. Also we need to limit the flows that go into the Dysart basin. The basin will be located within the noise contours which will help prohibit development around Luke Air Force Base.

We are requesting the authority to negotiate IGAs, to include funds in our 5-year CIP. We are also requesting to also be able to purchase right of way as necessary and defined by the project, and to begin the design work for the project.

Discussion

Martin: What standard did the developers use in reference to flood control in those channels?

Jones: This area to the north?

Martin: The blue area, you said the developers put in.

Jones: That's this are right here. You mean the yellow?

Martin: Oh, the yellow, not the blue then

Jones: This hasn't been constructed yet.

Martin: Oh ok, I misunderstood.

Jones: This will be designed for 100 yea future conditions flow along with the basin.

Martin: Who constructed the retainage area?

Jones: This was an existing Dysart basin that was built by Flood Control along with Luke Air Force Base to mitigate the flooding that occurred on the base in 1992/1993

Martin: Seems strange that you have to put the two of them that close together.

Jones: This was designed for the existing conditions. The actual flow diverts here at Olive Avenue due to the height of the railroad. The water ponds on the north side. If the ponding is reduced by channelization the flows are raised. A basin is necessary to reduce the peak flow.

Ward: I am going to have to excuse myself from voting on this issue as I have a conflict in the area. But I have a question if I may, I am in the process of developing a piece of property on the northwest corner of Peoria and Litchfield with William Lyon Homes, how is this going to affect this project?

Jones: It would actually benefit that project because the flow direction is in a southeasterly direction.

Lemmon: Mr. Ward, I'm sorry, according to the new rules, if you are going to exclude yourself you cannot get involved in the discussion. I know if you call and talk to Greg, I'm sure he can answer your question. I'm sorry, I didn't mean to interrupt you.

Ward: Sorry Julie.

Lemmon: That's ok.

Patel: Any other questions or comments?

ACTION: It was moved by Mr. Callow and seconded by Mr. Cherrington to approve staff recommendations. The motion carried unanimously with the exception of Mr. Ward who abstained from voting for cause.

6) TRES RIOS PROJECT UPDATE

Don Rerick, P.E., Project Management Branch Manager, presented the Tres Rios Update for information and discussion only.

Mr. Rerick gave a brief background on the project. In 1992 the Holly Acres Community filed a lawsuit with the City of Phoenix, claiming that the increased discharges from the 91st Avenue waste water treatment plant was aggravating vegetation and growth in the river thereby reducing the conveyance capacity and thereby increasing flooding problems in the community. The City reacted positively by recommending and implementing the Tres Rios demonstration project which at this point has been completed and is a great example of habitat restoration. The data obtained from that project, the lessons learned from that project, resulted in the City approaching the Corps of Engineers to implement the Tres Rios Project. The principle partners in this project are the City of Phoenix and the Corps of Engineers. Because of the significant habitat benefits that this project will create, Fish and Wildlife and Arizona Game and Fish have been actively involved in the development of the project. There are also a number of flood control benefits, this project will provide, so the District has shown a keen interest in participation. Although as of today, there are no formal agreements between the City and the District. Additionally, there is no funding in the 5 year CIP for this project however, the District has drafted a "Memorandum of Understand" to outline what we believe our participation will be. Our participation is defined as the following: participation regularly in meetings, review and comment on the design, eventually develop an IGA, potential cost share participation, and we have offered to operate and maintain the north levy. The flood control features on the project are estimated to be around 8 million dollars. The cost share is split 65% Corps of Engineers, 35% City of Phoenix. The draft MOU that the District sent to the city proposes that the District will share the City's 35% cost 50-50. The Holly Acres Community has been very active in this project, they attend all of the meetings and have been terrific in providing input.. The Gila River Indian Community, who will be affected because of the Reservation lands, have also been actively involved in the development and are supportive of the project.

The primary project objectives are habitat restoration and flood control. Habitat restoration will consist of various repairing and open water marsh features, wetlands. The flood control features primarily consist of a levy on the north side of the river. The District would like to see the 123rd Avenue landfill addressed as well. The District has participated in this project thus far to assist with flood control design issues. The District wants to ensure that flood protection is provided, to consider the design analysis, worst case conditions in the river, and to use our experience obtaining operations and maintenance permits to ensure that the levy is properly designed.

Discussion

Patel: In the early days of this project, I read an article where this was being called an "incubator" project and the Corps was looking to take this technology to other parts of the country. Do you think that ever happened?

Rerick: I'm not personally aware of that. We do have a representative of the Tres Rios Project from the City of Phoenix, Aimee Conroy maybe she could address that if she is aware..

Conroy: Nothing specific exactly like Tres Rios, but some of the concepts that we've talked about in Tres Rios have been brought over to the Rio Salado project that is currently under construction with the Corps in the central part of Phoenix. The Corps is getting into a larger river restoration role. The use of affluent is often what makes us unique, but I know that the City of Albuquerque is also looking at doing something in the Rio Grande using some of their waste water treatment plant affluent. We have basically done a lot of pioneering work in constructing wetlands especially in the arid southwest.

*Callow :*What is the difference between a wetland and a marsh?

Conroy: Perspective, basically there really isn't a lot of difference between a wetland and a marsh. For us it is the types of reeds and plants we use. A marsh is just an area of water that just

kind of sits there, in our case we are controlling these wetlands that we will be controlling the type of vegetation that grows, and we will be controlling the vectors. A lot of marshes back east are considered wetlands, so there really isn't a lot of difference.

Cherrington: Safe harbor, is Phoenix applying for that or the Flood Control District, what is that?

Conroy: Yes, the City of Phoenix and it's partners, hopefully Flood Control is our partner in this, will be applying for safe harbor. Currently where we are right now is we are just looking at whether safe harbor is something that fits for what Tres Rios is going to be, so we've just done the first phase. Which is looking at what is a safe harbor, talking to some of our initial stake holders such as U.S. Fish and Wildlife, Arizona Game and Fish different people like that. The second phase which is going to be starting probably within the next couple of months will be actually drafting up a draft amendment to give to U.S. Fish and Wildlife saying this is what we think the safe harbor should be. We are going to be looking at baseline for different endangered species that we would expect to see in this area, we will be doing a lot of surveys. Gila River Indian Community does have some issues with whether a safe harbor would be right for their land, there's another secretarial order that covers endangered species within the Indian Communities, so we have to work out issues with that as well. What we're hoping the safe harbor agreement will do is allow us to develop a baseline that we say x number of pygmy owls- we don't have pygmy owls- or whatever the endangered species would be, we can say this is our baseline and this is how ever many birds we have and we can make sure that when we do maintenance activities we bring it back down to that baseline so we would still have a habitat that can support that number of birds. So, it's almost kind of like a tape permit, but it is a little bit different than that. So, we are just learning about what is going to be, we have had 3 or 4 meetings on safe harbor and flood control will play a large role in that.

Cherrington : Your baseline right now does not have any endangered species on it?

Conroy: Well, we are trying to figure out how many endangered species we have now. SO let's say there aren't any in the existing conditions, what we would say is we will bring in some in with the project that's why we have a river restoration plan. We also have to maintain it or we are not going to be able to control flooding or whatever may happen in this area. So, if we may have to unfortunately remove some habitat for some endangered species, give us some consideration because we are improving overall. We also have to have an adaptive management period as a part of this project, so our goal will be to not disturb any endangered species that we may come into contact with as a part of this project. But we don't want to be so hampered that we can't maintain our project. Just because they found one, whatever, we don't want to have them say well, look you can't do any maintenance whatsoever and we end up with a choked river that we can't maintain when the next 2 or 500 year flood that comes thru and we have the same thing we had before we did the project. We are really trying to avoid that before hand so we don't get in some of the spots that SRP is in actually.

Ward: I have a general question, has anyone contacted the Department of Agriculture and does this restoration project affect the Phoenix/Goodyear airport?

Rerick: The project does not affect the Phoenix/Goodyear airport, the 10 thousand foot limit, we are comfortably upstream from that.

Conroy: We are in their two mile, there's a 10 thousand, there's a 2 mile, and a 5 mile, we are definitely within their 2 mile limit but we are not in their 2 thousand foot. We have contacted the U.S. Department of Agriculture for a couple of different things, what section of the Department of Agriculture are you talking about? You have anybody in particular?

Ward: Wendy Cervos?

Conroy: Yeah, we know Wendy, right. We have contracted with Wildlife Services, which is the division of U.S. Department of Agriculture, to work on beavers. They also are doing some surveys, base surveys, on wildlife in the area. So, we have talked to Wendy and her boss quite a bit. And we are very cognizant of what is going on a Sky Harbor, Rio Salado is one of our sister projects, so we are following what happens at Rio Salado and actually sit on their Wildlife management committee, Tres Rios does. So, we're really staying on track and we're hoping that

anything we learn from Rio Salado we can bring with us to Tres Rios so we do not impact Goodyear.

Patel: Any other questions?

Ellegood: Mr. Chairman, I would like to make a few comments if I may. The key thing here is that we are at a point now where we need to start formalizing agreements with a myriad of agencies, particularly with and most especially with the City of Phoenix. There is a sort of a cast of thousands, in terms of Federal, the Indian Community and other agencies. So we are going to go thru a period now of discussions and negotiations to hammer out a MOU about who is gonna do what. And that in turn will form a basis for an IGA that will allow us to move this project forward. And typically when we get to this point is when things can get a little tense at times as we work out various project responsibilities. I just want to make you aware of that, that's kind of what this is all about. .

ACTION: No action required – for information and discussion only.

7) FY 2002 FULL YEAR FINANCIAL ANALYSIS

Michael Alexander, Financial Budget Analyst, presented FY 2002 Full Year Financial Analysis for information and discussion only.

Mr. Alexander gave a brief summary of the financial operations the District experiences during fiscal year 2002, which ended June 30 of 2002. The numbers that were seen on the slides and handouts will appear in the annual report upon publication. Mr. Alexander expressed that during the FY 2002 the District faced a great deal of uncertainty, the economy has been sluggish and recessionary. District management has been faced with a number of fiscal challenges, we have had to make some very difficult decisions and been forced to draw some priorities. Mr. Alexander also expressed that the economy has detrimentally affected the District, particularly true in the CIP. CIP has traditionally been dependent on partnership agreements with municipalities and also with developers and they have been faced with tightening budgets this past year and in some cases, have been unable to enter into partnership agreements and that has caused delays in our project schedules. The secondary tax revenues, again for the 4th year in a row, failed to reach projected levels. Excess land sales were down about 1.5 million dollars. Last November, the Board of Directors asked us to do some voluntary budget reductions. At that point, we took a real hard look at where we might be at the end of the fiscal year and we in fact reduced our budget by about a half of a million dollars.

Despite all of these factors, the District did collect about 93% of budgeted revenue, an amount that was sufficient to see us through the year and fund all of our operations. Our final projection to Downtown finance was at about \$21 million dollars, it actually came in at \$20,240,000. Assuming that FY 2003 will be somewhat similar to our experience 2002, we fully anticipate a year from now to have our numbers meet straight across the board.

Discussion

Callow: There is something there call Central Service Allocation for \$1.1 million dollars. Does that pay for overhead for downtown?

Alexander: That is correct.

Callow: That's for the County Manager's salary for Administration...

Ellegood: That is correct, we get certain services from the County and certain services we get whether we like it or not, that pays for it.

Ward: Is it allocated based on your budget, or how do they determine what your...

Alexander: I've never seen the actual calculation, but if it is a standard cost allocation I would imagine that it is based on head count, on square footage, the size of your budget, I think there are a lot of different factors that go into it.

Ellegood: I am told that it is an allocation that every agency in the County pays and it is formula calculated so that general fund departments wouldn't pay any more than we would. I am told that, I have no way of verifying that.

Patel: Any other questions?

ACTION: No action required – for information and discussion only.

8) FLOOD CONTROL ADVISORY BOARD BY-LAWS

Mike Ellegood, Chief Engineer and General Manager, presented to the Board the changes made to the FCAB By-Laws for information and discussion only.

Mr. Ellegood asked that the Board adopt the amended Advisory Board By-Laws. These by-laws were adopted in 1983 and have not been updated since. All of the proposed changes are editorial, no changes have been suggested in operations or Board procedures. Mr. Ellegood asked again that the Board review and hopefully adopt the amendment.

Discussion

Patel: So, we should make that an agenda item for the next meeting as this is presented today as an information and discussion only?

Lemmon: Right, but you are going to vote on it. Put it on for a vote at the next meeting.

Ellegood: I'd ask that we do that, but this just gives you a little bit of an opportunity, I don't think there's anything in there that is surprising.

Patel: Did anyone have any questions on that?

Ward: Julie, is this something that you crafted?

Lemmon: Actually, they originally were done in '83 and I don't know who wrote them back then. I did work with Kathy in 1999, we went through and cleaned up some of the outdated language but we didn't make any major revisions as to how you did your work. It appeared that what was in here was consistent with the statute, which was the #1 thing for me and also with how you operate. If there is a change in how you want to operate, this would be a good time to bring it up. If it is statutorily possible, you might be able to make a change. I think these were put out in 1999 and we didn't get a lot of feedback and they just fell under the view screen and we didn't get back to them. But I have reviewed them. Do you have any specific questions?

Patel: Let's put it on the agenda.

Ellegood: Sure.

9) COMMENTS FROM THE CHIEF ENGINEER AND GENERAL MANAGER

Mike Ellegood reminded the Board that at last month's meeting he introduced George Miller who represents the County audit agency. The auditors are now in the middle of the preliminary investigation. The audit seems to be focusing on how the District is funded, how funding impacts and reflects the County property tax. They also seem to be questioning our statutory separation from the Administration of the County. The audit is still in the information gathering phase.

Mr. Ellegood announced that the Board of Directors/County Board of Supervisors have requested a joint work study session on October 24, 2002 at 9am in the Adobe conference room. Mr. Ellegood has asked that it be a joint Flood Control Advisory Board and Board of Directors joint work study session. The Flood Control District will make a presentation on where the District is and the issues that face it. Some of the issues facing the District are: aging management, aging

infrastructure and client city cost sharing. This will be a formal joint meeting, appropriately noticed.

Mr. Ellegood asked the Board to determine the succession of officer positions. He indicated that Mr. Patel could stay as chairman or they may follow the succession of Vice Chairman to the Chairman position.

Mr. Ellegood advised the Board with the latest developments of the situation with Pinal County and State Land. On October 11, 2001 we received a letter declaring that the 09 easements that were granted in 1964 to the District were null and void from the inception. According to the letter three major structures, to include the Central Arizona Project Canal, we now have no authority to operate and maintain. Due to the importance of this, we attempted to take these to Federal court. Last week we learned that Federal judges ruled and refused to accept jurisdiction. The District in the next week or so will be briefing in an executive session our Board of Directors/County Board of Supervisors giving them a series of options in determining which way they would like the District to head with this. Mr. Ellegood received a letter from Mike Hannibal at State Lands requesting a meeting where he and Mr. Ellegood can sit down and discuss options. Mr. Ellegood has agreed to this , but is not sure what options the District would find acceptable. It is essential for not only the District but every municipality in the State that this question of easements get answered as they too have easements prior to 1967 that will be affected by this claim. Throughout this process the District has operated and maintained the structures but has since ceased operation and maintenance due to the judge's ruling in Federal court. The District will operate and maintain in emergency situations until there is resolve. Mr. Ellegood will make this a standard item in his report to the Board.

Mr. Ellegood advised that the annual report will be out next month. The Board saw the financial results in the presentation earlier, the rest of the report outlines things that we have done over the past year. A printed copy will be given to each Board member and a copy will be sent out to our client cities.

9) SUMMARY OF RECENT ACTIONS

Actions of the Board of Supervisors were included in the FCAB packet

10) OTHER BUSINESS AND COMMENTS FROM THE PUBLIC

There was no other business or comments from the public.

The meeting was adjourned at 3:27 p.m. by general consent.

Shirley Long
Secretary of the Board

Anne Van Note
Acting Clerk of the Board